

1 Vanessa R. Waldref
2 United States Attorney
3 Eastern District of Washington
4 George J.C. Jacobs, III
5 Assistant United States Attorney
6 Post Office Box 1494
7 Spokane, WA 99210-1494
8 Telephone: (509) 353-2767

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 07, 2021

SEAN F. MCAVOY, CLERK

9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

2:21-CR-11-WFN

13 vs.

Pretrial Diversion Agreement

14 CONNOR ADRIAN POTUCEK,

15 Defendant.

16 Plaintiff United States of America, by and through Vanessa R. Waldref, United
17 States Attorney for the Eastern District of Washington, and George J.C. Jacobs, III,
18 Assistant United States Attorney for the Eastern District of Washington, as well as
19 Defendant CONNOR ADRIAN POTUCEK, and Bevan J. Maxey, counsel for
20 Defendant CONNOR ADRIAN POTUCEK, agree to the following Pretrial Diversion
21 Agreement:

22 **I. Overview**

- 23 1. On February 2, 2020, the Grand Jury returned an Indictment charging
24 CONNOR ADRIAN POTUCEK with a violation of 18 U.S.C. § 1001(a)(2).
25 (ECF No. 1).
26 2. Defendant CONNOR ADRIAN POTUCEK agrees that the United States
27 could prove the charge in the Indictment, and that Defendant violated 18
28 U.S.C. § 1001(a)(2). Defendant wishes to accept responsibility for his

1 conduct. Specifically, Defendant agrees to, and wishes to accept
2 responsibility for, the following:

3 a. On or about August 22, 2020, in the Eastern District of Washington
4 and elsewhere, CONNOR ADRIAN POTUCEK electronically
5 accessed the U.S. Department of Veterans Affairs Office of Inspector
6 General ("VA OIG") Hotline Complaint Center and filed a "Web
7 Complaint" against Spokane VA Medical Center ("VAMC")
8 employee, B.H., a licensed registered nurse. The United States
9 Department of Veterans Affairs ("VA") is a department and agency
10 within the executive branch of the Government of the United States.
11 The Spokane VAMC is operated by the VA and is located in Spokane,
12 Washington. The Spokane VAMC is dedicated to providing health
13 care services to veterans. The nature of the allegations in a complaint
14 received by the OIG Hotline Complaint Center determine which VA
15 OIG division(s) would manage the case. The VA OIG refers certain
16 matters directly to the appropriate VA office if the allegation appears
17 to warrant action. CONNOR ADRIAN POTUCEK's Web Complaint
18 was referred to the VA OIG's Spokane Resident Office for further
19 investigation.

20 b. On or about August 22, 2020, CONNOR ADRIAN POTUCEK made
21 the following materially false statements and representations about
22 B.H. to the VA:

Web Complaint Section Heading	Statements and Representations
Facility Involved	ICU nurse B.H. in Spokane, Washington regularly consumes non-prescription pharmaceuticals.
Wrongdoer(s)	B.H.
Victims	All Members of armed services who think they have a sober nurse.

1 Allegations	Hydrocodone abuse, oxycontin abuse, modafinil abuse.
2 Impact	Theft from patients in need, impaired productivity.
3 Offense Dates	Since B.H. started, other employees have given her clean urine.

5

6 c. On September 21, 2020, VA OIG investigators interviewed CONNOR

7 ADRIAN POTUCEK in Spokane, Washington. The interview was

8 recorded. CONNOR ADRIAN POTUCEK stated he was vacationing

9 with B.H. in McCall, Idaho, the night he made the Web Complaint.

10 He filed the complaint after they had an argument and she left him

11 stranded in McCall without a car. CONNOR ADRIAN POTUCEK

12 said he continued to consume alcohol after B.H. left McCall and he

13 started internet researching VA phone numbers to contact. CONNOR

14 ADRIAN POTUCEK stated his motivation was to "hurt" B.H. and by

15 filing a complaint with the VA that she was diverting controlled

16 substances for her personal use was a way to "get at her" for leaving

17 him stranded. CONNOR ADRIAN POTUCEK stated his allegations

18 were false. CONNOR ADRIAN POTUCEK stated he specifically

19 identified three controlled substances in the complaint because he

20 thought it would jeopardize B.H.'s license and felt he had to be

21 specific otherwise his allegations would not be taken seriously.

22 CONNOR ADRIAN POTUCEK stated he tried calling several VA

23 numbers but they were dead ends. Eventually, he decided to file a

24 Web Complaint through VA OIG Hotlink, anticipating that to be a

25 dead end too.

26 3. On the authority from the Attorney General of the United States, through

27 Vanessa R. Waldref, United States Attorney for the Eastern District of

28 Washington, prosecution in the Eastern District of Washington for the

1 offense alleged in the Indictment shall be deferred for 24 months. This 24-
2 month period begins on the date this Agreement is signed by both the parties
3 and accepted by the Court.

- 4 4. This Agreement is not intended—and shall not be construed—as a liability
5 admission by any party.
- 6 5. The parties agree that the Court will maintain jurisdiction over this matter
7 and that the Court shall be the final arbiter on 1) whether a party breached
8 this Agreement and, if so, 2) the appropriate remedy, which may include
9 either terminating the Agreement or modifying its terms. A modification
10 may include extending the Agreement's 24-month period by an additional
11 12 months (for a maximum of 36 months).

12 II. Terms

13 CONNOR ADRIAN POTUCEK agrees to the following terms:

- 14 1. **Supervision.** Mr. Potucek agrees to be supervised by the United States
15 Probation Office during this 24-month period (or longer, if the period is
16 extended by the Court). Mr. Potucek's supervision terms include the
17 following:
- 18 a. Mr. Potucek shall not violate any federal, state, or local law (this does
19 not apply to civil infractions such as speeding).
- 20 b. If Mr. Potucek is arrested or has any official contact with a law
21 enforcement officer in a civil or criminal investigative capacity, he
22 shall notify his supervising diversion officer within two (2) business
23 days.
- 24 c. Mr. Potucek shall live in the Eastern District of Washington. If
25 Mr. Potucek seeks to move outside the district, then he shall notify his
26 supervising diversion officer so appropriate arrangements can be
27 made.
- 28

1 d. Mr. Potucek shall be employed regularly at a lawful occupation.

2 When out of work, he shall notify his diversion supervisor. In the
3 event he is self-employed, he shall provide evidence of said self-
4 employment.

5 e. Mr. Potucek shall report to his supervising diversion officer as
6 directed. Any failure to abide by the reporting requirements
7 established by the diversion supervisor will be deemed to be an
8 irrevocable violation of the instant Agreement.

9 f. Mr. Potucek shall not possess, control, consume and/or use any
10 alcohol or illegal controlled substance, including marijuana.

11 g. Mr. Potucek shall obtain a substance abuse evaluation and enter into
12 any outpatient or inpatient treatment programs at the direction of his
13 diversion supervisor.

14 2. **Tolling.** Mr. Potucek agrees to toll the running of all applicable statutes of
15 limitations for the offense alleged in the Indictment. This tolling shall run
16 from the date this Agreement is signed by all parties until the Agreement
17 expires or is terminated by the Court. Mr. Potucek agrees that the
18 Agreement's tolling provision does not abridge or curtail the applicable
19 statute of limitations in any way, but rather extends the applicable statute of
20 limitations by the time period that the Agreement is in effect.

21 3. **Speedy Trial.** Mr. Potucek acknowledges that he enjoys speedy trial rights
22 under both the Sixth Amendment to the United States Constitution and
23 18 U.S.C. § 3161. Mr. Potucek agrees that he will neither move the Court to
24 dismiss any charges nor assert any defenses based on speedy trial violations
25 while prosecution is deferred under this Agreement. Mr. Potucek further
26 agrees that if this Agreement is terminated by the Court and the United
27 States resumes prosecuting him for the offense alleged in the Indictment,
28 any delays stemming from this Agreement are requested by him, and these

delays are reasonable, necessary, and in the interest of justice. *See* 18 U.S.C. § 3161(h)(2).

4. **Breach.** If, after a hearing, the Court terminates the Agreement based on a breach by Mr. Potucek, then the United States may resume its prosecution against Mr. Potucek for any available charges.

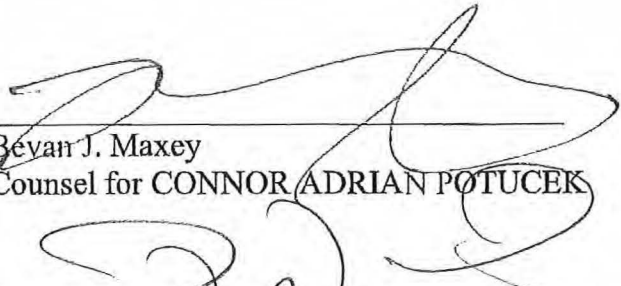
The United States agrees to the following terms:

1. **Admissibility of the Pretrial Diversion in Prosecution.** Should the Court terminate the Agreement based on a breach by Mr. Potucek, Mr. Potucek agrees and understands that this Agreement and his admissions herein will be admissible against him at any trial, sentencing, or other proceeding. Mr. Potucek further agrees and understands that in that event all statements made to the United States pursuant to this agreement, including any testimony provided in any proceeding, will be admissible against him at any trial, sentencing, or other proceeding.
2. **Defer Prosecution.** The United States agrees to defer prosecuting the above-captioned matter for 24 months (or up to 36 months, if the Agreement is extended). If Mr. Potucek completes this Agreement (even if there are modifications or extensions), then the United States will dismiss the Indictment with prejudice. In addition, if Mr. Potucek completes this Agreement, then the United States will not charge Mr. Potucek with any other offenses stemming from the conduct set forth in the Indictment.

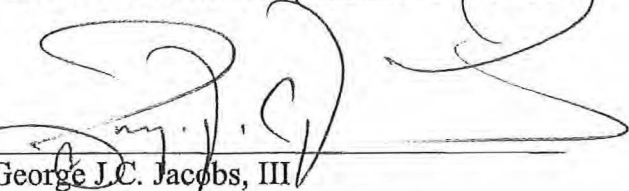
I hereby state that the above has been read by me. I understand the conditions of my pre-trial diversion and agree that I will comply with them.


 CONNOR ADRIAN POTUCEK

Nov 2 2021
 Date


1 
2 Bevan J. Maxey
3 Counsel for CONNOR ADRIAN POTUCEK

11-2-21
Date

4 
5 George J.C. Jacobs, III
6 Assistant United States Attorney

12/6/2021
Date

7
8
9 Approved without passing judgment on the merits or wisdom of this diversion.

10 
11 Wm. Fremming Nielsen
12 Senior United States District Judge

12/7/21
Date